

March 23, 2004

The Honorable L. Alma Mansell
President of the Senate
and
Martin R. Stephens
Speaker of the House

Dear President Mansell and Speaker Stephens:

This is to inform you that on March 23, 2004, I vetoed the following line item appropriations in H.B. 3, SUPPLEMENTAL APPROPRIATIONS ACT II, and have transmitted the bill to the Lieutenant Governor for filing.

Item 18 To Department of Administrative Services - Purchasing

The Legislature intends that all departments and divisions, except for the division of Juvenile Justice Services, in state government be encouraged to contract with private non-state governmental entities to provide services to the citizens of the State of Utah. The Legislature further intends that a report be presented to the Executive Appropriation Committee in October 2004 on the extent that departments and divisions used private non-state governmental entities to provide services to the citizens of Utah. The Legislature also intends that the report describe (1) additional services that the departments and divisions reasonably believe could be delivered by private non-state governmental entities, and (2) which services cannot be delivered by private non-state governmental entities.

The scope of this language is very broad. It is unclear if the intent is to contract for program services, or go so far as to look at employee leasing as an alternative to hiring employees. The Division of Purchasing does not have the staff nor the resources to coordinate such a report without additional funding.

I agree that departments and divisions should constantly review their operations to identify cost savings and to promote efficiencies. The Privatization Board also exists to review services provided by the state that could be contracted with the private sector. If areas of concern exist, the Privatization Board should review them and make recommendations for change.

Item 30 To Department of Commerce - Commerce General Regulation
From General Fund Restricted - Commerce Service Fund - Public Utilities
Regulatory Fund
Schedule of Programs:

Public Utilities	150,000
Committee of Consumer Services	(150,000)

The Legislature intends that the Division of Public Utilities use these funds to assess the impact of Public Service Commission decisions on Utah's business climate.

Item 31	To Public Service Commission	
	From General Fund Restricted - Commerce Service Fund - Public Utilities	
	Regulatory Fund	20,000
	Schedule of Programs:	
	Committee of Consumer Services	20,000
	The Legislature intends that these funds be used to pay for the annual telecommunications report.	

The offsets to these items were deleted with a floor amendment. This action makes the technical change to clean up these items.

Item 85	To State Board of Education - State Office of Education	
	From Uniform School Fund, One-time	1,000,000
	Schedule of Programs:	
	Student Achievement	1,000,000
	<p>It is the intent of the Legislature that the USOE use this one-time appropriation to contract with a private entity which meets the qualifications of the RFP approved by the Education Interim Committee. It is further the intent of the Legislature that this funding be used strictly to implement the proposal in the school districts, and not for software program development.</p>	

I am troubled by the legislature issuing a RFP and selecting a vendor in behalf of a state agency. The founders of our nation rightly recognized the potential for one branch to seek to increase its authority at the expense of another. Human nature being what it is, the founders provided us with checks and balances. The success of our democracy depends on continuous, unbending allegiance to separation of powers and checks and balances. Because this line item in H.B. 3 takes a small step in the wrong direction, I feel compelled to veto.

I am very supportive of competency-based education and pledge to continue efforts to make it a reality. However, the implementation of competency-based education is a responsibility of the executive branch within the policy guidelines established by the legislature.

While I am not vetoing “Item 82 To Department of Administrative Services - Finance - Mandated” which calls for a legislative tuition tax credit study, I am not happy that this money is

appropriated to an executive branch department. If the legislature chooses to conduct a study, it should appropriate the funds to the Legislative Fiscal Analyst's or Legislative Research and General Counsel's office. Money appropriated to the executive branch should not be mandated and controlled by the legislature. Again, this is a separation of powers issue.

Sincerely,

Olene S. Walker
Governor